

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MORGAN MCSHAN, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

HOTEL VALENCIA CORPORATION and
DOES 1 through 100, inclusive,

Defendants.

Case No. 5:19-CV-03316-LHK

**ORDER GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Before the Court is Plaintiff's Motion for Preliminary Approval of Class Action Settlement, ECF No. 43; Joint Report re Motion for Preliminary Settlement Approval, ECF No. 47; and revised Class Notice, ECF No. 51.

On December 3, 2020, the Court held a hearing on this motion. At the hearing, the parties confirmed that the parties' release of class claims is limited to the "identical factual predicate" alleged in the operative complaint, ECF No. 16. *See* Revised Joint Stipulation of Settlement and Release to Settle Class Action ("Revised Settlement Agreement") ¶¶ 15, 66, ECF No. 47-1 (release of class claims); Order to Further Supplement Motion for Preliminary Approval, ECF

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

No. 32 (describing “identical factual predicate” requirement). The parties also confirmed that the Released Claims’ inclusion of “legal theories alleged in the operative [c]omplaint” is necessarily limited to the identical factual predicate alleged in the operative complaint. Revised Settlement Agreement ¶ 15 (defining Released Claims); *see id.* ¶ 66 (releasing Released Claims).

Having considered the parties’ briefing, the relevant law, counsel’s representations at the December 3, 2020 hearing, and the record in this case, the Court GRANTS Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

IT IS HEREBY ORDERED THAT:

1. The Court preliminarily approves the Revised Settlement Agreement, ECF No. 47-1, attached as Exhibit A to the Joint Report re Motion for Preliminary Settlement Approval. This is based on the Court’s determinations that (1) the Settlement is within the range of possible final approval; and (2) for the purposes of approving this settlement only, the proposed class may meet the requirements for certification under Federal Rule of Civil Procedure 23.

2. The Court approves, both as to form and content, the revised Class Notice, ECF No. 51. The Class Notice shall be provided to Class Members in the manner set forth in the Settlement Agreement. The revised Class Notice is the best notice practicable under the circumstances and allows class members a full and fair opportunity to consider the settlement.

3. Simpluris Class Action Settlement Administration (“Simpluris”) is approved to serve as the claims administrator. Simpluris will provide the Class Notice to Class Members in the manner set forth in the Settlement Agreement.

4. The final approval hearing shall be held on April 8, 2021 at 1:30 p.m. in Courtroom 8 of this Court, to determine whether the proposed Settlement is fair, adequate, reasonable, and should be granted final approval. At that time, the Court will also consider Plaintiff’s application for attorneys’ fees, costs, settlement administration expenses, and any application for a service payment to the Class Representative.

IT IS SO ORDERED.

1 Dated: December 7, 2020

2 By: Lucy H. Koh
3 LUCY H. KOH
4 United States District Judge
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800